

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

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UNITED STATES OF AMERICA,

*Plaintiff,*

v.

AMR CORPORATION,  
AMERICAN AIRLINES, INC., and  
AMR EAGLE HOLDING  
CORPORATION,

*Defendants.*

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Civil Action No.: 99-1180-JTM

**UNITED STATES' OPPOSITION TO DEFENDANTS' MOTION TO COMPEL**

Plaintiff United States opposes the motion of defendants AMR Corporation, American Airlines, Inc., and AMR Eagle Holding Corporation ("defendants" or "American") for an order compelling an answer to Interrogatory No. 2 of Defendants' First Set of Interrogatories, and responds as follows in conjunction with its accompanying Memorandum of Law.

Relying largely on a recent decision from the United States District Court for the District of Delaware, U.S. v. Dentsply Int'l, Inc., 187 F.R.D. 152 (D. Del. 1999), American propounded Interrogatory No. 2, which calls for a recitation of the facts the government obtained in each interview it conducted in law enforcement investigations that are relevant to its claims against American. With the exception of the Dentsply decision, the law is clear that what facts an attorney learned in a particular oral interview conducted in anticipation of litigation is protected by the work-product doctrine. Moreover, a party cannot discover protected work-product contained in documents through interrogatories or

depositions. Thus, defendants' claim that they are seeking only facts, and not work-product is misleading because it is the form in which they seek the facts -- on a witness-by-witness basis -- that violates the work-product doctrine. As a result, American's motion should be denied.

American's Interrogatory No. 2 is objectionable also because it seeks witness-by-witness summaries of the facts supplied to government attorneys in anticipation of litigation as those facts relate to the United States' entire case. The law of this district is clear that interrogatories are to be narrowly drawn and focused on discrete issues, and that a party need not answer interrogatories that overreach.

Based on defendants' clarifying statements regarding their interrogatories, i.e., that they seek only information supplied orally by third parties (as opposed to all persons), the United States withdraws its remaining objections.

For these reasons, the United States respectfully requests this Court to deny American's motion.

Respectfully submitted,

Plaintiff United States

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